

108TH CONGRESS  
2D SESSION

# H. R. 5134

To require the prompt review by the Secretary of the Interior of the long-standing petitions for Federal recognition of certain Indian tribes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2004

Mr. POMBO introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To require the prompt review by the Secretary of the Interior of the long-standing petitions for Federal recognition of certain Indian tribes, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. PROMPT CONSIDERATION OF CERTAIN PETI-**  
4                       **TIONS REQUESTING FEDERAL RECOGNITION**  
5                       **AS AN INDIAN TRIBE.**

6       (a) TIME PERIOD FOR PROPOSED FINDING.—Not  
7 later than 6 months after the date of the enactment of  
8 this Act, the Secretary of the Interior, or a designee of  
9 the Secretary, shall publish a proposed finding with re-

1 spect to the petition for Federal recognition of each eligi-  
2 ble tribe consistent with part 83 of title 25, Code of Fed-  
3 eral Regulations.

4 (b) TIME PERIOD FOR FINAL DETERMINATION.—  
5 Not later than one year after the date of the enactment  
6 of this Act, the Secretary of the Interior, or a designee  
7 of the Secretary, shall publish a final determination with  
8 respect to the petition for Federal recognition of each eli-  
9 gible tribe.

10 (c) NOTIFICATION; OPT OUT.—Not later than 30  
11 days after the date of the enactment of this Act, the Sec-  
12 retary of the Interior, or a designee of the Secretary, shall  
13 notify, in writing, all eligible tribes of their inclusion in  
14 the expedited procedure for proposed findings and final  
15 determinations under this Act. If, not later than 60 days  
16 after the date of the enactment of this Act, a petitioner  
17 notifies the Secretary of the Interior, or a designee of the  
18 Secretary, in writing, that the tribe elects to opt out of  
19 the expedited procedure, the tribe shall not be considered  
20 an eligible tribe for the purposes of this Act.

21 (d) NUMBER OF MEMBERS NOT A FACTOR.—The  
22 number of persons listed on the membership roll contained  
23 in a petition for Federal recognition of an eligible tribe  
24 shall not be taken into account in considering the petition,  
25 except that the Secretary of the Interior, or a designee

1 of the Secretary, may review the eligibility of individual  
2 members or groups listed in a petition in accordance with  
3 the provisions of part 83 of title 25, Code of Federal Reg-  
4 ulations.

5 (e) EFFECT OF FAILURE TO COMPLY.—If the Sec-  
6 retary of the Interior, or a designee of the Secretary, fails  
7 to publish a proposed finding required by subsection (a)  
8 or a final determination required by subsection (b) by the  
9 end of the time period required for the proposed finding  
10 or final determination by such subsections, the relevant  
11 eligible tribe may—

12 (1) treat such failure as final agency action re-  
13 fusing to recognize the tribe as an Indian tribe; and

14 (2) seek in United States district court a deter-  
15 mination of whether the petitioner should be recog-  
16 nized as an Indian tribe in accordance with the cri-  
17 teria specified in section 83.7 of title 25, Code of  
18 Federal Regulations.

19 (f) REVIEW OF ADVERSE DECISION.—If the final de-  
20 termination required by subsection (b) refuses to recognize  
21 the tribe as an Indian tribe, the tribe may seek, during  
22 the one-year period beginning on the date on which the  
23 final determination is published, a review of the deter-  
24 mination in a United States district court notwithstanding  
25 the availability of other administrative remedies.

1       (g) CONSIDERATION OF OTHER PETITIONS.—Until  
2 the Secretary of the Interior, or a designee of the Sec-  
3 retary, has published a proposed finding with respect to  
4 the petition of each eligible tribe as required under sub-  
5 section (a), no other petition for recognition as an Indian  
6 tribe may be processed except those listed as having a sta-  
7 tus of “Active” or “In Post-Final Decision Appeal Proc-  
8 ess” by the Department of the Interior on July 1, 2004.

9       (h) NO CHANGE IN CRITERIA.—Nothing in this Act  
10 shall be construed to change the criteria established by  
11 the Department of the Interior to determine whether or  
12 not a petitioner meets the requirements to be a federally  
13 recognized tribe.

14       (i) ELIGIBLE TRIBE.—For the purposes of this sec-  
15 tion, the term “eligible tribe” means a tribe that—

16               (1) has made an initial application for recogni-  
17 tion as an Indian tribe to the Department of the In-  
18 terior before October 17, 1988; and

19               (2) is listed as having a status of “Ready, Wait-  
20 ing for Active Consideration” by the Department of  
21 the Interior on July 1, 2004.

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